

REMARKS

By the above amendment, claims 1 - 30 have been canceled without prejudice or disclaimer of the subject matter thereof, claim 31 having been previously canceled and new claims 32 - 37 being presented, which new claims recite further features of the present invention while also reciting features previously recited in claims 1 - 30 as will be discussed below.

The rejection of claims 1, 3, 4, 6, 8 - 11 and 25 - 29 under 35 USC 103(a) as being unpatentable over Vatt et al (US 5,894,590) in view of Dempo (US 6,321,088); the rejection of claims 2, 5, 30 under 35 USC 103(a) as being unpatentable over Vatt et al (US 5,894,590) in view of Dempo (US 6,321,088) further in view of Sawyer (US 6,603,972); the rejection of claim 7 under 35 USC 103(a) as being unpatentable over Vatt et al (US 5,894,590) in view of Dempo (US 6,321,088) and further in view of Sauvageot et al (US 6,128,488); the rejection of claims 12, 22 under 35 USC 103(a) as being unpatentable over Vatt et al (US 5,894,590) in view of Sauvageot et al (US 6,128,488); the rejection of claims 13, 14, 16 - 21 and 23 - 28 under 35 USC 103(a) as being unpatentable over Vatt et al (US 5,894,590) in view of Sauvageot et al (US 6,128,488) and further in view of Dempo (US 6,321,088); and the rejection of claim 15 under 35 USC 103(a) as being unpatentable over Vatt et al (US 5,894,590) in view of Sauvageot et al (US 6,128,488) and Dempo (US 6,321,088) further in view of Sawyer (US 6,603,972); such rejections are considered to be obviated by the cancellation of the aforementioned claims and such rejections are traversed insofar as they are applicable to the newly presented claims.

As to the requirements to support a rejection under 35 USC 103, reference is made to the decision of In re Fine, 5 USPQ 2d 1596 (Fed. Cir. 1988), wherein the court pointed out that the PTO has the burden under '103 to establish a prima facie

case of obviousness and can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. As noted by the court, whether a particular combination might be "obvious to try" is not a legitimate test of patentability and obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. As further noted by the court, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

Furthermore, such requirements have been clarified in the decision of In re Lee, 61 USPQ 2d 1430 (Fed. Cir. 2002) wherein the court in reversing an obviousness rejection indicated that deficiencies of the cited references cannot be remedied with conclusions about what is "basic knowledge" or "common knowledge".

The court pointed out:

The Examiner's conclusory statements that "the demonstration mode is just a programmable feature - which can be used in many different device[s] for providing automatic introduction by adding the proper programming software" and that "another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial" do not adequately address the issue of motivation to combine. This factual question of motivation is immaterial to patentability, and could not be resolved on subjected belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher."... Thus, the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion. (emphasis added)

At the outset, it is noted that newly presented independent claims 32 and 33 while reciting the features of the present invention not previously set forth in the original claims also recite features concerning particular information which is sent at a particular time corresponding to previous recitations. Looking to claim 32, this claim recites the feature of a sent information-processing unit which determines whether or not satellite-changeover occurs during sending of an information packet to be sent based on the information on the orbit of the satellite, and if it is determined that the satellite-changeover occurs during sending of the information packet to be sent, then postpones sending of the information packet to be sent, and starts sending of the information packet to be sent after completion of the satellite-changeover, wherein the information packet to be sent, whose sending has been postponed, is sent after the completion of the satellite-changeover, along with the last m items of information packets, which were sent just before the satellite-changeover, where m indicates an integer not less than 0. Applicants note that such features correspond somewhat to the features previously recited in original claims 2 and 5, for example. In rejecting claims 2 and 5, the Examiner combined Vatt et al, Dempo and Sawyer, with the Examiner apparently recognizing that Vatt et al and Dempo do not disclose such features, although in section 3 at pages 6 and 7 of the office action, the Examiner apparently indicate that Vatt et al and Dempo do disclose the features of claims 2 and 5, but applicants consider that the Examiner intended to indicate that Vatt et al and Dempo do not disclose the features of claims 2 and 5, since the Examiner cites the patent to Sawyer for disclosing such features, referring to column 1, lines 57 - 61 and contending it would be obvious to modify the system of Vatt et al and Dempo by using features, as taught by Sawyer.

The Examiner contends that Sawyer discloses the features as recited in claims 2 and 5, and in the rejection utilizes the language of claims 2 and 5, while contending that recited features are disclosed in Sawyer at column 1, lines 57 - 61. Irrespective of the contentions by the Examiner, column 1, lines 57 - 61 of Sawyer state:

As a consequence, during a hand-off, data transmission may be temporarily interrupted and the data buffered, followed by resumption of transmission upon completion of the hand-off and possible retransmission of any lost data.

Sawyer provides the description in terms of the Background of the Invention, and applicants submit that Sawyer does not provide a disclosure or teaching of the recited features of claims 2 and 5 in terms of the sending of the last m items of information packets which were sent just before satellite-changeover, where m indicates an integer not less than 0, as recited in claim 32 and generally previously recited in original claims 2 and 5. Again, applicants submit that the Examiner has recognized that Vatt et al and Dempo do not disclose or teach such features. Thus, applicants submit that claim 32 patentably distinguishes over Vatt et al, Dempo and Sawyer taken alone or in any combination thereof and such claim such be considered allowable thereover.

New claim 33 recites features similar to claim 32, but recites that each client comprises a sent information-processing unit which determines whether or not satellite-changeover occurs during sending of an information packet to be sent based on the information on the orbit of the satellite from the satellite-control unit, and if it is determined that the satellite-changeover occurs during sending of the information packet to be sent, then postpones sending of the information packet to be sent to the server-system, and starts sending of the information packet to be sent to the server-system after completion of the satellite-changeover, and wherein the

sent information-processing unit stores the last m items in the information packet sent just before the satellite changeover, and sends the information packet to be sent whose sending has postponed, following the last m items stored, after the completion of the satellite-changeover, where m indicates an integer not less than 0. Thus, claim 33 in addition to other features differs from claim 32 in that the delay in sending is a delay of the client, and particular information is sent after completion including the last m items stored. As pointed out above, the Examiner has recognized that Vatt et al and Dempo do not provide any disclosure or teaching concerning such features and as indicated above, irrespective of the Examiner's contentions, Sawyer also provides no disclosure or teaching of the recited features of claim 33 or its dependent claim 34. Thus, applicants submit that such claims patentably distinguish over the proposed combination of Vatt et al, Dempo and Sawyer et al in the sense of 35 USC 103 and should be considered allowable thereover.

With respect to claims 35 and 36, such claims recite features similar to that previously recited in claim 12, noting that claim 35 recites the feature of a sent information-processing unit of the server-system which determines whether or not satellite-changeover occurs during sending of an information packet to be sent, based on the information on the orbit of the satellite from the satellite-control unit, and sends repeatedly the information packet to the satellite to be next used until completion of the satellite-changeover, if it is determined that the satellite-changeover occurs, and that the server-system informs each client apparatus that satellite changeover is in operation. Claim 36 recites the feature that each client apparatus comprises a sent information-processing unit which determines whether or not satellite-changeover occurs during sending of an information packet to be sent

based on the information on the orbit of the satellite from the satellite-control unit, and sends repeatedly the information packet to the server-system until completion of the satellite-changeover, if it is determined that the satellite-changeover occurs.

Applicants note that such claims recite the feature of determining the start of satellite-changeover based on information on the orbit of the satellite and repeatedly sending the information packet to the satellite to be next used or to the server-system until completion of the satellite-changeover. The Examiner apparently contends that such features are disclosed by Sauvageot et al at page 9 of the office action with the Examiner referring to column 2, lines 36 - 46. Applicants note that this portion of Sauvageot et al states:

At the time of communication link handover, said station is advantageously adapted to transmit to a new satellite without ceasing to transmit to an old satellite, to select a first active terminal, to obtain advance data to be transmitted to said terminal, to transmit said advance data to said terminal over said additional communication channel, to transmit to said first terminal a communication link handover instruction, to selective a second active terminal, and to continue this process until communication link handover has been completed in all active terminals, after which said particular station ceases to transmit to said old satellite.

Irrespective of the Examiner's contentions, applicants submit that Sauvageot et al does not disclose or teach the recited features of claims 35 and 36 with respect to an information packet, which is being sent during satellite-changeover, is repeatedly sent to a satellite to be next used, or is repeatedly sent from a client apparatus to the server-system, until completion of the satellite change-over. Again, while the Examiner has utilized language of the previous claims, and attributes such language to the cited art, it is apparent that the claimed features are not disclosed or taught by Sauvageot et al, taken alone or in combination with Vatt et al, Dempo and/or Sawyer in the sense of 35 USC 103. Thus, applicants submit that claims 35 and 36 as well as dependent claim 37, which depends from claim 36 and recites the feature that

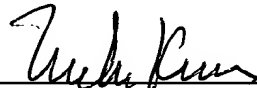
each client apparatus displays that the satellite-changeover is in operation on its display, such features are not disclosed or taught in the cited art, taken alone or in any combination thereof and such claims also patentably distinguish over the cited art and should be considered allowable at this time.

In view of the above amendments and remarks, applicants submit that all claims patentably distinguish over the cited art and should now be in condition for allowance. Accordingly, issuance of an action of favorable nature is courteously solicited.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 503.39296X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

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